

**REQUEST FOR PROPOSAL
TO ESTABLISH
REAL PROPERTY SERVICES
CONSULTANT PANELS**

JULY 14, 2004

**CITY OF RIVERSIDE
AND
REDEVELOPMENT AGENCY
OF THE CITY OF RIVERSIDE
3560 University Avenue, Suite B
Riverside, CA 92501**

PART I - PROPOSAL

Introduction

The City of Riverside (“City”) and the Redevelopment Agency of the City of Riverside (“Agency”) are soliciting proposals from professional consulting firms to provide the following right of way, real estate, and other related services on an as needed basis:

1. Appraisal
2. Relocation and related services
3. Acquisition and Conveyance
4. Fixtures and Equipment Appraisal
5. Loss of Goodwill
6. Property Management
7. Environmental Phase I and II, Asbestos and Lead-based Paint Studies
8. Geotechnical Soils Testing

It is the intent of the City and Agency to establish a list of qualified consultants in order to create a more efficient and effective project. The City and Agency believe that greater efficiency will be realized by eliminating the review of qualifications and by eliminating contract review for each individual project. Greater effectiveness will be realized through consultant familiarity with City/Agency standards and performance expectations.

It is the City and Agency's intent to establish a panel (“Panel”) of consultants for each specialty area. (The actual number of consultants selected will depend on the availability of qualified firms, evidenced by the proposal process.) Each consultant selected will enter into separate agreements with both the City and the Agency for a term of five (5) years each. The maximum cumulative payment obligation of each consultant (including obligation for profit) is Five Hundred Thousand Dollars (\$500,000) for the City and Five Hundred Thousand Dollars (\$500,000) for the Agency, which shall include all amounts payable to consultant for subcontracts, leases, materials and costs arising from, or due to termination of, this Agreement. Specific projects under \$25,000 will be assigned to a selected consultant from the appropriate panel on a case-by-case basis or on a rotating basis as may be determined by the City and/or Agency. Cost proposals for projects over \$25,000 will be solicited from the consultants on the panels.

The specialty areas to be selected by consultant firms in this Request for Proposal (“RFP”) are as set forth in the Scope of Services section included herein. A firm may be selected for one or more specialty areas, depending on qualifications. Firms are hereby encouraged to submit proposals for as many specialty areas as they deem themselves qualified for, including sub-contracted services. (You must include any subcontractor information in your proposal.)

Proposal Submittal

Provide five (5) copies of your firm's proposal for each specialty area proposed. **Proposals are due no later than 5:00 p.m., Thursday, August 5, 2004.** This time and date is fixed and extensions will not be granted. The City and Agency do not recognize the U.S. Postal Service or any other organization as its agent for purposes of receiving proposals. All proposals received after the deadline shown will not be accepted and will be rejected. **Faxed proposals will not be accepted.**

Envelopes containing proposals must be clearly marked "Consultant - RFP" along with the name of the specialty area(s). Mail or hand-deliver proposal to:

Kelly Kitasato
Real Property Supervisor
City of Riverside
Real Property Services Division
3560 University Avenue, Suite B
Riverside, CA 92501

Questions pertaining to this RFP should be directed to Kelly Kitasato, Real Property Supervisor, at the above address, or phone number (909) 826-5343.

It is anticipated that the final selections will be concluded by August 25, 2004.

Proposal Requirements

This RFP is intended to assess each firm's general capabilities as they would apply to the City and/or Agency and to evaluate specific responses to each specialty area and the expected Scope of Services. In order to facilitate the selection process, your response to this RFP must address each of the following items in the same outline format as shown below. Limit your proposal to 25 pages or less (excluding cover letter and attachments).

Your proposal shall include an introduction and four tabbed sections.

I. Introduction

A. Cover letter

1. State the specialty area(s) in the subject line or at the top of the cover letter of the proposal.
2. If you have any objections to the terms and conditions of the sample agreement attached to this RFP, you must clearly indicate each provision objected to, the nature of each objection, the reasons therefore and specific language proposed to be placed in the final agreement in lieu thereof.
3. Provide your legal entity (e.g., a California corporation or sole proprietorship) and your Federal taxpayer ID number. Note that sole proprietorships will be required to provide their social security numbers at the time of contract formation if selected.

II. Approach to Scope of Services (TAB)

- A. Describe your firm's approach to the scope of services identified for each of the specialty areas for which you wish to be considered, and address any deviations that you propose.
- B. Delineate your firm's strengths in the specialty areas of your application.

III. Qualifications & Experience (TAB)

- A. List projects previously worked on for City of Riverside or its Redevelopment Agency.
- B. Separately list projects performed for other clients; briefly describe projects and services performed by your firm (i.e. number of parcels, number of relocations, staff involved and their function, year completed)
- C. Provide a minimum of three (3) references for public agency projects performed within the past three (3) years. Include the project description and size, agency or client name along with the person to contact and the telephone number(s), email addresses (if available), and year completed. **A minimum of two years experience working on public or quasi-public agency projects is required.**
- D. If desired, you may also include letters of reference in this section.

IV. **Personnel** (TAB)

A. For each specialty area, provide a project team organization chart identifying those who will perform work, including names, titles and classification.

B. Provide a statement of qualifications and resume of the key personnel, including similar type of work in which they have been directly involved. Each firm shall specifically provide the following information and resumes on all employees to be providing services:

1. Name and title;
2. Description of education
3. General experience, including total years in public agency, real property, testimony experience, and years of employment with the firm, etc.;
4. Specialized education and training related to the RFP project and description of prior local government experience;
5. Any certifications or other information which will assist in evaluating qualifications (professional designations, courses taken, court experience, expert witness experience, etc.

V. **Fees** (TAB)

A. Provide a quotation for the hourly rates applicable to all staff and subconsultants proposed to work on City and/or Agency projects. Also include overtime hourly rates, mileage costs, and pricing for any additional billing requirements, if applicable. Please make sure that the titles in the fee schedule are consistent with the organizational chart included in Section IV.

B. Rates shall remain firm for a minimum of three (3) years from contract formation. Thereafter, rates may be reviewed and revised one time by written notice from consultant to the Real Property Supervisor within ninety days prior to the end of the third year of the contract. However, any proposed rate increase shall not exceed the then current Consumer Price Index (CPI).

C. Hourly rates quoted at the commencement of any specific project shall remain firm throughout the duration of that project.

All proposals shall be signed by a company official with the power to bind the company in its proposal, certifying that all statements in the proposal are true and shall constitute a warranty, the falsity of which shall entitle the City and/or Agency to pursue any remedy authorized by law, which shall include the right, at the option of the City and/or Agency, of declaring any contract made as a result thereof, to be void.

All proposals must follow the specific format required and be completely responsive to the RFP.

Selection Procedure

The following is an outline of the procedures the City and/or Agency will use in the selection process:

1. A Selection Committee (“Committee”) will review the proposals submitted by the prospective consultants.
2. The Committee will select proposals which qualify based on the following factors:
 - a. Overall responsiveness and general understanding of the requirements of the scope of services as detailed in the RFP.
 - b. Ability to meet the specifications, conditions and other requirements described within the scope of services.
 - c. The quality of the work plan/methodology for meeting the specifications as described in the scope of services of the RFP.
 - d. Consultant’s experience in performing work similar to that of the City and/or Agency. **A minimum of two years experience working on public or quasi-public agency projects is required.**
 - e. Consultant's experience in performing the work as described within the scope of services.
 - f. Overall cost to the City/Agency.
 - g. References with demonstrated success, including timely completion, with projects similar to the scope of services.
3. The Committee will rank the consultants and recommend the consultants to be included on the Panels to the City Council and Agency Board.
4. The Committee Chairman shall notify all participating firms of the final outcome. A Professional Service Agreement will be sent to the firms selected for the Panels.

Contract Terms

1. The City's/Agency's standard Professional Services Agreement is included herein as Attachment I. It is expected that the Agreement is to be approved “as is” with no modifications and will be executed by the selected consultants. However, consultants having any objections to the terms and conditions of the sample agreement are required to set forth clearly within the “Introduction” section of the proposal any provision objected to, the nature of each objection, the reasons therefore and specific language proposed to be placed in the final agreement in lieu thereof. Failure to take exception to the terms and conditions in this manner shall constitute acceptance by the consultant. Below are some of the contractual terms included in the Agreement:
 - a. Business Tax Registration requirements
 - b. General Liability, Automobile, and Errors and Omissions, if applicable, and Workers’ Compensation insurance requirements
 - c. Schedule of Fees
 - d. No substitution of key personnel without prior written approval by the City and/or Agency
 - e. Affirmative Action requirements
2. The method of compensation will be in accordance with terms and conditions of a successfully negotiated Professional Services Agreement.
3. The contract, if awarded, will include the Scope of Services generally set forth in this RFP as it relates to the particular specialty being awarded.
4. Upon identification of a specific project, proposal may be obtained and a supplement to the PSA and purchase order will be issued for a “not-to-exceed” price.

Miscellaneous Provisions

1. The proposer must make careful examination of the requirements, specifications, and conditions expressed in the RFP and fully understand the services required. If any proposer planning to submit a proposal finds discrepancies in, or omissions from the RFP or is in doubt as to the true meaning, a written request may be submitted for interpretation or correction thereof to the Real Property Supervisor, prior to submission of the proposal. Such requests must be delivered to the Real Property Supervisor and allow at least five (5) working days for responses. The person submitting the request will be responsible for its prompt delivery. Requests may be faxed to (909) 826-2504. Any changes to the RFP will be made only by written addendum, given to each consultant to whom the RFP was sent. The City and Agency will not be responsible for any other explanations or interpretations.

2. The City/Agency has established certain mandatory requirements which must be included as part of any bid. The use of the terms “shall”, “must” or “will” (except to indicate simple futurity) in this RFP indicate a mandatory requirement or condition. The words “should” or “may” in this RFP indicate desirable

attributes or conditions, but are permissive in nature. Deviation from, or omission of such a desirable feature will not by itself cause rejection of a proposal.

3. The RFP process may be canceled after opening but prior to award if the City and/or Agency determines that cancellation is in the best interest of the City and/or Agency for reasons (but not limited to) such as:

- a. Inadequate, ambiguous, or otherwise deficient specifications that were cited in the RFP.
- b. The services are no longer required.
- c. Proposals received are at an unreasonable cost.
- d. Proposals did not independently arrive in open competition, were collusive, or were not submitted in good faith.
- e. The City and/or Agency determines, after analysis of the proposals, that its needs can be satisfied through a less expensive method.

4. The City and/or Agency reserves the right to amend or modify the Scope of Services prior to the award of any contract(s), as necessity may dictate, and to reject any and all proposals hereunder for any reason. All proposals and supplemental or amended contracts become the property of the City and Agency. All information submitted in the written proposal becomes "public record" as defined by the State of California upon completion of the procurement process. If any proprietary information is contained in or attached to the written proposal, it must be clearly identified; otherwise by submission of the proposal, the proposer agrees that any and all data provided may be released to the public after contract award.

This Request for Proposal does not commit the City and/or Agency to award a contract or to pay any costs incurred in the preparation of a proposal on response to this request. The City and/or Agency reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified source or to cancel in part or in its entirety this Request for Proposal if it is in the best interest of the City and/or Agency.

PART II - SCOPE OF SERVICES

A. Appraisal

- A.1. The services described below shall be provided in the proposal:
- A.2. Prepare a complete self-contained tabbed appraisal report in triplicate valuing the real property. If a report is being prepared for multiple parcels, the report shall be divided and labeled with tabs that identify the beginning of the narrative analysis and valuation for that parcel.
- A.3. The report shall conform to the requirements promulgated by the Appraisal Foundation and known as the Uniform Standards of Professional Appraisal Practice, which are effective at the time the report is delivered to the City/Agency.
- A.4. The report shall be prepared in conformity with the Eminent Domain Law and interpretive cases. Consultant shall complete an Appraisal Summary Statements including the attachments, using a form provided by the City/Agency, in order to comply with the requirements of California Government Code, Section 7267.2.
- A.5. The report shall contain the following: all real estate items (land, buildings, and appurtenant on-site improvements), exclusive of non-realty fixtures, equipment and business inventory; pertinent property data; a date of value; discussions and conclusions of highest and best use; a narrative explanation of approaches to value; summary and tabulation of market data; analysis of market data and conclusions of value, including severance damages where applicable.
- A.6. Consultant will attend a “scoping session” meeting, submit a draft report and attend a pre-submission conference with City/Agency staff, if required by staff.
- A.7. Consultant shall be available to testify in depositions or as an expert witness in any case in which such services would, in the City’s/Agency’s discretion, be required. Any such services shall be billed per consultant’s rate schedule attached to Consultant’s proposal.
- A.8. Nothing contained in this Scope of Services shall be construed as relieving the Consultant from the performance of any work and/or inclusion of any item in the appraisal report that would otherwise be required for sound appraisal practices.

B. Relocation and related services

The relocation assistance program will involve providing each affected displacee with financial and advisory assistance. The needs of each displacee will be carefully analyzed to determine what specific benefits and services are required.

Consultant will comply with all applicable federal and state laws, rules and regulations relating to relocation assistance and the City adopted relocation assistance policies and procedures.

B.1. Relocation Plan *(if required pursuant to California Code of Regulations, Title 25, §6038)*

The Relocation Plan ("Plan") shall conform to all requirements of State HCD Guidelines (California Code of Regulations, Title 25) and the Federal Uniform Act, if applicable, as well as the City of Riverside's Rules and Regulations for Implementation of the California Relocation Assistance Law and Property Acquisition Procedures.

The Plan shall include, at a minimum, the following:

1. An analysis of the needs of the residential displacees which would include the number of occupants residing in a dwelling, family size and ages, household income, special needs.
2. An analysis of replacement housing resources and the determination as to whether sufficient housing is available to accommodate the number of displacees in the Project.
3. Personal contact with as many of the residential displacees as possible (100% is preferred).
4. An analysis of the businesses being displaced and available resources.
5. A Replacement Housing Plan, if required.
6. Submission of draft Plan to City and State Department of Housing and Community Development ("HCD") for review.
7. Provide notices to affected community regarding availability of the Plan.
8. Assist in the preparation of the report to City Council required for approval of Plan once the thirty day review period is ended.

B.2. Residential Relocation *(if applicable)*

The scope of services for residential displacees includes, but is not limited to the following:

1. Interview prospective displacees to ascertain relocation housing needs and verify income and rent/mortgage payments and determine if any special needs exist in the household.
2. Inform displacees of available relocation assistance services and benefits, and explain relocation process.
3. Provide advisory assistance on an on-going basis, including referrals to and coordination with social service agencies, housing authorities, and any other services, which may be required.
4. Prepare notices under the direction of the City and personally deliver required notices, which may include Informational Statements, Notices of Displacement, 90-Day Notices to Vacate, and other notices.
5. Provide displacee, in writing, with referrals to comparable replacement housing.
6. Determine eligibility of each displacee and amount of relocation benefits, including moving payments, rental/down payment assistance, and replacement housing payments and, to the extent possible, include at least three comparables in the computation, and prepare Entitlement Letter to each displacee.
7. Conduct "decent, safe and sanitary" inspections of comparable replacement dwellings

and advise displacee of findings.

8. Prepare all necessary claim forms, secure displacee's signatures on claim forms, and submit claim forms to City for processing. When checks are available, personally deliver checks to displacee, whenever possible.
9. Obtain moving cost estimates, as needed, and monitor the move, as necessary.
10. Maintain files on each displacee and submit completed files to City when displacee has received final payment.
11. Provide City with bi-weekly status reports, or as required, and a written report in a form pre-approved by City staff summarizing the status of the relocation for each displacee bi-monthly.
12. Provide project management services to coordinate and meet with City staff to discuss progress and schedule as needed.

B.3. Business Relocation (*if applicable*)

The scope of services for displaced businesses includes, but are not limited to the following:

- C. Interview prospective displacees to ascertain relocation needs.
- D. Inform displacees of available relocation assistance services and benefits, and explain the relocation process.
- E. Prepare notices under the direction of the City and deliver required notices, which may include Informational Statements, Notices of Displacement, 90-Day Notices to Vacate, and other notices.
- F. Provide displacee, in writing, with referrals to comparable business locations and assist in any planning and/or permitting issues.
- G. Advise business owners of potential claim for loss of goodwill.
- H. Negotiate with business owner for fixtures and equipment (F&E), as may be required. The City will provide appraisals for such F & E. Itemize this cost separately.
- I. Facilitate the Notice of Bulk Transfer, fees for same to be paid by City.
- J. Provide on-going advisory assistance to business owners.
- K. Prepare specifications for the move and inventory of personal property, coordinating with acquisition agent to assure that there is no dispute with property owner, if owner is not business owner.
- L. Obtain minimum of two bids from movers that are suited to the type of business being relocated.
- M. Monitor the actual move to replacement site and re-establishment activities, as necessary.
- N. Determine eligibility of each business and the proposed amount of relocation benefits, including actual and reasonable moving payments, re-establishment payments, or the "in-lieu" payment and deliver Entitlement Letter.

- O. Prepare all necessary claim forms, secure claimant's signatures on claim forms, and submit claim forms to City for processing and payment. When checks are available, personally deliver checks to displacee, whenever possible.
- P. Maintain files on each displacee, provide City with monthly status reports, as required, and submit completed files to City when displacee has received final payment.
- Q. Provide project management services to coordinate and meet with City staff to discuss progress and schedule as needed.

C. Acquisition

- C.1. If required, attend start-up meeting with the project team, including City/Agency departmental staff and consultants. Also, attend project status meetings if required.
- C.2. If requested by City/Agency, prepare cost estimate of all real property related costs, including professional services.
- C.3. Issue Notice of Decision to Appraise to property owners, attaching City/Agency Property Acquisition Procedures Brochure.
- C.4. Obtain at least three RFP's for appraisal services, including Furniture and Equipment ("F&E"), if applicable, and submit to City staff for final selection. Issue Notice of Decision to Appraise or Review appraisals upon receipt from the City/Agency. Coordinate with staff and appraisers for any questions/comments regarding the reports.
- C.5. If applicable, coordinate with Relocation Consultant regarding F&E list for any affected businesses, based on appraisals provided by the City/Agency (as needed).
- C.6. If required, prepare and make presentations to public groups, staff and elected officials, including, business and neighborhood associations, and City Council/Agency Board.
- C.7. Obtain and review title reports and/or litigation guarantees as may be required, including vesting deeds, supporting documents and plotted easements. Furnish title reports and vesting deeds to City staff to prepare legal descriptions. Coordinate clearance/elimination of clouds on title where applicable and act as liaison for on-site pre-acquisition inspections of properties as may be required.
- C.8. Prepare all offer letters, summary statements, and lists of compensable items of F&E, in accordance with state and federal regulations and approval of legal counsel. Forms to be provided by City/Agency.
- C.9. Present the written offer to purchase to the appropriate owners or their representatives in person, when possible, as soon as possible after receipt of signed offers from City/Agency. In instances where the property owner declines to acknowledge receipt of the offer to purchase, a certification of presentation will be obtained and forwarded to the City/Agency.
- C.10. Personally negotiate with the property owners (or their appointed representatives) for the purchase of the required property rights.
- C.11. Prior to concurrence of property owner prior to execution of acquisition agreement with City/Agency, coordinate contacts with City/Agency's Relocation Consultant, as may be required.

- C.12. Continue personal negotiations with the property owners and tenants until every reasonable effort has been exhausted and it appears that the only remaining method of acquisition is through eminent domain proceedings. This process should take a maximum of 60-90 days.
- C.13. Prepare all acquisition agreements and other documents necessary to complete the acquisition in a form provided by the City/Agency. The City/Agency will provide Easement Deeds.
- C.14. If negotiations are not successful for acquisition of property interests, negotiate a Right of Entry to start the Project. City staff will provide the Right of Entry form.
- C.15. Promptly transmit all executed documents on successfully negotiated parcels to City for acceptance, including necessary supporting agenda items.
- C.16. Provide needed information to City/Agency staff for preparation of City/Agency agenda items and public hearing notices, as necessary for approval of acquisition terms.
- C.17. At such time that negotiations appear to be unsuccessful and eminent domain proceedings have commenced, provide coordination and assistance necessary to aid the condemnation counsel.
- C.18. In the course of negotiations with the property owners and tenants, provide all necessary information to and work with the City/Agency Relocation Consultant, if such a consultant is working on the Project, and City/Agency staff, in order to expeditiously and professionally complete the Project.
- C.19. Maintain a separate diary for each individual parcel and a diary of all pertinent information and contacts concerning the Project parcels.
- C.20. Provide a written report, in a form pre-approved by City staff, summarizing of the status of the acquisition of each parcel on a monthly basis and/or upon request of City staff.
- C.21. Coordinate the opening and closing of escrow; request funds from City/Agency.

D. Conveyance

- D.1. Obtain at least three Requests for Proposal (RFP) for appraisal services, and submit to City staff for final selection. Review appraisals upon receipt from the City/Agency. Coordinate with staff and appraisers for any questions/comments regarding the reports.
- D.2. If required, prepare and make presentations to public groups, staff and elected officials, including business and neighborhood associations, and City Council/Agency Board.
- D.3. Obtain and review title reports as may be required, including vesting deeds, supporting documents and plotted easements. Furnish title reports and vesting deeds to City staff to prepare legal descriptions and plats. Coordinate clearance/elimination of clouds on title where applicable and act as liaison for on-site pre-acquisition inspections of properties as may be required.
- D.4. Present the written offer to purchase to the City/Agency. Prepare all counter offer letters for City/Agency review prior to release to prospective buyers.
- D.5. Personally negotiate with the prospective buyer (or their appointed representatives) for the conveyance of the property rights proposed.
- D.6. In the course of negotiations with the property owners and tenants, provide all necessary information to and work with the City/Agency Relocation Consultant, if such a consultant is working on the Project, and City/Agency staff, in order to expeditiously and professionally complete the Project.
- D.7. Prepare all agreements, Right of Entries, and other documents necessary to complete the conveyance in a form provided by the City/Agency. The City/Agency will provide Grant Deeds and/or Easement Deeds.
- D.8. Promptly transmit all executed documents on successfully negotiated parcels to City/Agency for execution.
- D.9. Maintain a separate diary for each individual parcel and a diary of all pertinent information and contacts concerning the Project parcels.
- D.10. Provide a written report, in a form pre-approved by City/Agency staff, summarizing the status of the conveyance of each parcel on a monthly basis and/or upon request of City/Agency staff.
- D.11. Provide needed information to City/Agency staff for preparation of City/Agency agenda items and public hearing notices, as necessary for approval of conveyance terms.
- D.12. Coordinate the opening and closing of escrow; request funds from City/Agency.

E. Fixtures and Equipment Appraisal

- E.1. Provide a full narrative appraisal report in triplicate of the improvements pertaining to the realty and movable equipment of the business. The report will include an estimate of the replacement cost new, fair market value in place and liquidation value of all appropriate items. The report shall be presented in conformance with Article 3 of the California Code of Civil Procedure, '1263.205 and '1263.210. Compensation for losses in connection with movable personal property is included in the California Code of Regulations, Title 25, '6090 and '6092. Appraisal procedures shall be guided by the Uniform Standards of Professional Appraisal Practice (USPAP).
- E.2. In preparing the appraisal, the appraiser shall perform the following:
1. Inspect the business facility;
 2. Prepare an inventory of the improvements pertaining to the realty and major movable equipment;
 3. Coordinate appraisal activities with the real estate appraiser to avoid duplication of compensation;
 4. Interview the business owner regarding the history, operation and tangible assets owned; and
 5. Utilize generally accepted valuation methodology to estimate the fair market value in continued use and liquidation value of the appropriate items owned by the business.

F. Loss of Goodwill

- F.1. Provide preliminary goodwill loss estimates to be used for initial settlement purposes. Preliminary goodwill loss studies will be based upon any and all data which may be provided by the business owner, including owner/management interviews and historical financial statements. Additionally, perform a site and area inspection, market research and financial review.
- F.2. The preliminary goodwill loss estimates shall be presented in a letter format (three originals) with attached schedules. Included with this letter should be the purpose and function of the assignment, the sources of information relied upon, a brief description of the business appraised, and the valuation methodology employed.

G. Property Management

- G.1. Exclusive Appointment. City/Agency hereby designates and appoints Consultant as the exclusive property manager for the Project upon the terms and conditions set forth herein.
- G.2. Leasing. Consultant shall negotiate leases, rental agreements, modifications, amendments, renewals, and cancellations with existing tenants and future tenants, provided the rental rates are at least market rate. Consultant shall negotiate lease terms and concessions in accordance with guidelines provided by the City/Agency in writing from time to time, engage space planners and tenant improvement contractors, and renew existing desirable tenants. When vacant, the Consultant will list the available property in the Multiple Listing Services, advertise the premises or portions thereof for lease, prepare and secure leasing signs, lease plans, brochures, and other forms of advertising. Consultant will cooperate with other brokers.
- G.3. Collection of Rents; Enforcement of Leases. Consultant shall operate the Project in the same manner as is customary and usual for such property and shall provide such services as are customarily provided by operators of projects of comparable class and standing consistent with the Project's facilities. In addition to the other obligations of Consultant set forth herein, Consultant shall render the following services and perform the following duties for City/Agency in a faithful, diligent and efficient manner: a) maintain businesslike relations with tenants whose service requests shall be received, considered and recorded in systematic fashion in order to show the action taken with respect to each; b) request, demand, collect, receive and receipt for any and all charges or rents which become due to City/Agency; c) notify City/Agency within ten (10) days of any default in the rent and/or lease terms; and d) take all steps necessary, including legal actions, for the collection of delinquent rents and/or eviction.
- G.4. Payment of Expenses. Consultant shall pay all operating expenses and all other authorized expenses relating to the Project from revenues received from the Project. The balance of all such proceeds, if any, shall be disbursed to City/Agency no less frequently than once per month by the 15th of each month. All supplies, tools and equipment purchased by the Consultant for use on the Property shall be deemed an operating expense of the Property and remain the property of the City/Agency.
- G.5. Maintenance and Repair. Consultant shall supervise and arrange for the routine maintenance and minor repairs of the Project, including arrangement for janitorial service, if any, subject to the restrictions contained in Section 12 hereof. Any maintenance or repairs in excess of the amount authorized in Section 12 shall require prior written approval of the City/Agency, unless an emergency occurs that requires immediate attention.
- G.6. Employees. Consultant shall hire, supervise and terminate all labor and employees reasonably required in the maintenance, management and operation of the Project. Consultant shall prepare all payroll tax returns and other appropriate returns and reports relating to such employees, including, without limitation, any and all employment verification forms required under the Immigration Reform and Control Act and the regulations of the Immigration and Naturalization Service. Each of such employees shall be deemed to be independent contractors or employees of Consultant, and not City/Agency.
- G.7. Trust Accounts. Consultant shall maintain such trust accounts as City/Agency shall designate at such institutions as City/Agency shall designate. Consultant shall deposit therein all revenues received from the Project from which officers and/or employees designated by Consultant and approved by City/Agency shall have the right to draw checks in payment of labor and costs related to the Project as set forth in Sections 4, 5 and 6

hereof. Such amounts shall not be commingled with accounts for any other project managed by Consultant and shall be kept separate from Consultant's personal accounts.

- G.8. Governmental Compliance. Consultant shall take all necessary action to comply promptly with all laws, ordinances, regulations and orders affecting the Project. Consultant, however, shall not take any action under this Section so long as City/Agency is contesting or has affirmed its intention to contest any such order, regulation, ordinance or law.
- G.9. Claims. Consultant shall promptly investigate all accidents or claims for damages relating to the ownership, operation and maintenance of the Project, including any damage to or destruction of the Project and the estimated cost of repair thereof. Consultant shall cooperate and make any and all reports required by an insurance carrier or governmental authority in connection therewith.
- G.10. Other Services. Consultant shall take such further actions in connection with the management, leasing, operation, planning and development of the Project as City/Agency shall reasonably require, including the following:
1. Conduct a preliminary field investigation to evaluate common areas and parking facilities and ensure that each tenant is in compliance with all rental/lease agreement terms.
 2. Personally visit with each tenant on a bi-monthly basis to discuss tenant concerns and verify proper use of the premises.
 3. Determine the necessity to personally assess the need for both minor and major repairs on a case-by-case basis.
 4. Coordinate and personally supervise all major repairs and rehabilitation to the properties.
 5. Meet on-site with prospective tenants.
- G.11. Use of Affiliates. Consultant may not enter into any agreement with any partner, officer, employee or affiliate of Consultant for the furnishing of goods or service to the Project unless:
- a. such agreement is on generally competitive terms with other suppliers of such goods or services; and
 - b. such agreement has been approved by City/Agency.
- The failure of City/Agency to approve any such agreements submitted to it for approval within ten (10) business days after submission thereof, shall be deemed to constitute disapproval thereof.
- G.12. Authority to Execute Documents and incur Expenses.
- a. Consultant shall be authorized, as City/Agency's agent, to execute certain documents and incur reasonable expenses in connection with the performance of Consultant's obligations hereunder. Consultant shall have the power and is hereby authorized to do the following:
 - Execute agreements and documents and incur costs and expenses pursuant to budgets approved by City/Agency in connection with any activity required to be conducted by Consultant hereunder;
 - Incur costs and expenses and execute agreements and documents not exceeding \$1,500 per project even though not specifically authorized by a budget or other written approval for minor repairs and maintenance.
 - b. All agreements executed by Consultant hereunder shall contain a 30 day cancellation provision exercisable by either Consultant or City/Agency.
 - c. All documents and agreements involving the sale, conveyance, leasing, hypothecation or encumbrance of, or any interest in, any portion of the Project shall be executed by duly authorized officers of City/Agency only.

- G.13. Books and Records. Consultant shall maintain complete books and records of all costs and expenses incurred and all income and other revenues received in connection with the operation of the Project at its office located at _____. Books and records regarding the Project shall be kept in such manner and detail as City/Agency shall reasonably require. All such books and records, as well as all other books and records of Consultant which relate to the Project, including without limitation, financial or monthly reports, all checks, bills vouchers, statements, cash receipts and correspondence shall be available upon 24 hour notice for inspection and audit by City/Agency or any of its officers, employees or agents at all reasonable times during normal business hours. Consultant shall prepare and submit the following reports to City/Agency:
- a. a monthly operating statement describing the operating results of the Project, including rentals and other revenues received and expenses incurred on account of the Project; and,
 - b. an annual reconciliation of the CAM (Common Area Maintenance) charges prior to submission to tenants; and
 - c. an annual operating plan to be submitted for review and approval by City/Agency, which plan shall set forth the proposed operations relating to the Project for the next succeeding calendar year. Such plan shall be submitted at such time, in such detail and with such information as City/Agency shall reasonably require, and shall include, without limitation, the following items: a proposed budget for the next year, and proposed rent schedules. The Plan shall also include complete schedules of income and revenues received and costs and expenses incurred in connection with the ownership, operation, leasing and management of the Project in the preceding year.
- G.14. Review by City/Agency. Consultant and City/Agency shall meet periodically to discuss the management and leasing activities to be conducted by Consultant hereunder. Consultant shall have no authority to take actions hereunder which are contrary to written instructions of City/Agency delivered to Consultant after the execution hereof. All or any part of the authority granted to and obligations imposed upon Consultant by City/Agency may be revoked by City/Agency at any time.
- G.15. Priority. This description of scope of services is intended to enhance and expand upon that certain Professional Services Agreement to which it is attached (the Agreement). In the event there may be a conflict with any provisions of that Agreement, the provisions of the Agreement shall prevail.

H. Environmental Phase I and II, Asbestos and Lead-based Paint Studies

- H.1. Consultant will generally follow the standard practices of the American Society for Testing Materials (ASTM) *Phase I Environmental Site Assessment Process* (Standard: E1527-00).
- H.2. Review of regulatory agency records to identify recognized environmental conditions in connection with the property(ies);

LISTING	APPROXIMATE MINIMUM SEARCH DISTANCE
Federal National Priority List (NPL) Sites	1.0 mile
Federal CERCLIS Sites	0.5 miles
Federal CERCLIS NFRAP Site List	Property(ies) & Adjoining Properties
Federal RCRA (Resource-Conservation & Recovery Act) Federal RCRA CORRACTS Facilities List Federal RCRA non-CORRACTS TSD Facilities List Federal RCRA Generators List	1.0 mile 0.5 miles Property(ies) & Adjoining Properties
Federal Emergency Response Network System (ERNS) List	Site Only
State Equivalent NPL Sites	1.0 mile
State Equivalent CERCLIS Sites	0.5 miles
State Landfill/Waste Disposal Sites	0.5 miles
State Leaking Underground Storage Tanks (UST) Sites	0.5 miles
State Registered UST List	Property(ies) & Adjoining Properties

- a. Generally, this review will be limited to public information that is readily available and practically reviewable at a reasonable time and cost; examples of sources typically reviewed include:
 - b. Local regulatory agencies, such as the fire department, health department, air pollution district, sanitation district, etc. will be contacted as appropriate.
 - c. Review of site area geology and subsurface/surface potential for pollutant transport from public sources. Provide a description of the physical setting of the site; evaluate depth to groundwater and generalized gradient from available public sources.
- H.3. Historical use information through the review of aerial photographs, fire insurance maps, building permits, and USGS topographical maps. No other data sources will be checked/reviewed. The purpose is to identify uses that may have led to recognized environmental conditions (RECs) and historical RECs in connection with the property(ies). Consultant will attempt to complete the historical review back to the property's first developed use, or back to 1940, whichever is earlier.

- H.4. Visual survey of property(ies) and adjacent sites for indications of potential for contamination or contamination generators. Consultant will visit the property(ies) for interviewing site personnel and conducting a site reconnaissance. The objective of the site reconnaissance is to obtain information indicating the likelihood of identifying recognized environmental conditions in connection with the property(ies).
- H.5. A reasonable attempt will be made to interview the current owner(s), site manager(s), major occupant(s) and occupant(s) whose operations are likely to indicate recognized environmental conditions in connection with the property(ies).
- H.6. If appropriate, a reasonable attempt will be made to contact local government officials regarding recognized environmental conditions in connection with the property(ies).
- H.7. The results of the field site reconnaissance will be summarized, along with summaries of the site personnel interviews, site characteristics, records review, historical review, and potential for contamination; this will be used to develop conclusions and recommendations for additional work, if required, at the property(ies).
- H.8. Findings, opinions, conclusions, and supporting data will be presented in an environmental site assessment report. Four copies of the report will be submitted to the Client.

Business Environmental Risk

An evaluation of your *business environmental risk* associated with the subject property(ies) may necessitate additional assessment beyond this Scope of Services. The ASTM Standard E1527-00 defines a *business environmental risk* as “a risk which can have a material environmental or environmentally-driven impact on the business associated with the current or planned use of a parcel of commercial real estate, not necessarily limited to those environmental issues required to be investigated in this practice.”

The following business environmental risks items are intentionally, and by mutual agreement, excluded from the Scope of Services are non-scope considerations (unless specifically addressed elsewhere in this proposal).

- Asbestos
- Lead-based Paint
- Wetlands
- Cultural & Historic Resources
- Industrial Hygiene
- Health & Safety
- High Voltage Powerlines
- Soil Stabilization
- Radon
- Lead in Drinking Water
- Regulatory Compliance
- Ecological Resources
- Endangered Species
- Indoor Air Quality
- Testing or Sampling of Materials
- Dust Permitting

Some or all of the above non-scope considerations may need to be assessed in order to evaluate your business environmental risks.

I. Geotechnical Soils Testing

I.1. The technical approach and scope of work to examine and evaluate the subsurface conditions at the project site is presented below. Because the proposed development for the site is unknown, the recommended scope of work is for preliminary investigation. Further investigation will be required once the proposed development (location and number of structures, structural loads and type of structures) is decided. The purpose of the assignment is to evaluate the general engineering properties of subsurface soil conditions and provide preliminary engineering recommendations for earthwork and design only. The scope of works do not include any evaluation of subsurface soils regarding any environmental issues and assume the site has no negative impact from any environmental concerns. The scope of work consists of six primary tasks. The primary tasks are:

- Preliminary Work
- Fault Evaluation and Seismicity
- Field Exploration
- Laboratory Testing
- Engineering Analyses
- Report Preparation

A detailed description of each task is presented below:

I.2. Task 1 - Preliminary Work

Preliminary work will include a site reconnaissance, a review of available literature, and a review of the proposed development plans.

- a. A site reconnaissance will be performed to evaluate existing site conditions, staking of boring locations, and drill rig access will be verified. Consultant will notify Underground Service Alert (USA) prior to drilling activities. Consultant understands that a representative from the City/Agency will review the boring locations in the field and clear them of any conflict with underground utilities.
- b. A geotechnical and geologic reference search will be conducted to locate references on geology and soil conditions in the area. Sources to be searched will include in-house files for the project in the vicinity of the site, available outside consultant reports will be provided by the University, references from the California Division of Mines and Geology, United States Geological Survey maps and references, United States Department of Agriculture Soil Conservation Service Soil Surveys, and information available through the state universities. Data from the literature search will be field checked or verified if possible, and used to refine the field exploration program.

I.3. Task 2 - Fault Evaluation and Seismicity

- a. Consultant will conduct geologic and seismic hazard evaluation. The geologic and seismic hazard evaluation will include research and review of the States Alquist-Priolo Earthquake Fault Zoning Act with reference to pertinent state maps related to the project site. Where applicable, seismic safety elements and local jurisdictional guidelines for zoning will be observed and considered in the investigations.
- b. Major local and regional faults within 100 km (62 miles) from the project site will be considered in the evaluation of the site seismicity. A table will be presented listing the seismic characteristics of regional faults and approximate distances from the site and other important seismic characteristics of the various faults.

- c. A liquefaction evaluation will also be performed based on subsurface soil and groundwater conditions and anticipated ground motion.
- d. Other secondary hazards due to seismic activity to be evaluated include ground surface rupture, ground lurching, collapsible or dispersive soils, landsliding, earthquake-induced flooding, seiches, and tsunamis. The site-specific potential for each of these seismic hazards will be addressed as part of the evaluation.

I.4. Task 3 - Field Exploration

- a. Consultant will provide the equipment, labor and material to conduct the field exploration. A combined total of ten (10) borings and test pits will be drilled or excavated at the site. One boring will be drilled to 50 feet and the remaining borings and test pits will be advanced 10 to 30 feet below existing ground surface or to refusal, whichever is shallower.
- b. The field geologist and/or engineer will perform logging of all soils encountered in excavations by visual examination in accordance with the Unified Soil Classification System. All logging will be under the direct supervision of a California Certified Engineering Geologist and/or Licensed Geotechnical Engineer. Field descriptions will be modified where appropriate to reflect the laboratory test results.
- c. Ring samples of the subsurface materials will be obtained at frequent intervals in the exploratory borings using a drive sampler (2.4 inches inside diameter and 3.0 inches outside diameter) lined with sample rings. The steel ring sampler will be driven into the bottom of the boreholes with successive drops of a 140-pound driving weight falling 30 inches. Standard Penetration Tests (SPTs) may also be performed in the borings at frequent intervals in accordance with ASTM Standard D1586-84 test method. The recorded blow counts after six (6) inches of seating penetration will be shown in the logs of borings in the "blows/foot" column. SPT samples will be collected in plastic bags.
- d. Bulk samples of representative materials will also be collected from the borings and test pits for transportation to the laboratory for testing and analyses.

I.5. Task 4 - Laboratory Testing

The laboratory testing program will depend upon the type of soils encountered during the field exploration and the quality of samples obtained. Laboratory tests will include, but may not be limited to, the following:

- Classification tests (gradation, expansion index, and Atterberg Limits)
- Engineering property tests (i.e., shear, consolidation, and swell/collapse)
- Earthwork/compaction control tests (i.e., compaction, moisture content, in-place density, and sand equivalent)
- Chemical property tests (i.e., pH, resistivity, sulfate content, and chlorides)

The actual types and number of tests performed will depend upon the subsurface soils and types of structures and loadings anticipated for the project. All tests will be performed in accordance with the applicable ASTM Standards.

I.6. Task 5 - Engineering Analysis

Engineering analyses will be conducted on the basis of the results of the field investigation and laboratory testing for the development of conclusions and recommendations concerning the design and construction of the proposed developments. The analyses will include, but will not be limited to:

- An evaluation of nearby faults and seismic risk
- Evaluation of anticipated types and quantities of materials underlying the site
- Evaluation of anticipated excavation difficulties
- Evaluation of groundwater conditions
- Liquefaction potential
- Soil corrosivity
- Expansion potential of the site soils
- Temporary slope stability evaluation
- Soil compressibility and settlement characteristics
- Soil bearing value
- Impacts of construction on existing underground utilities
- Shrinkage and subsidence factors

I.7. Task 6 - Report Preparation

A geotechnical report will be prepared under the supervision of a Registered Geotechnical Engineer or Certified Engineering Geologist. The report will include the results of the investigation, laboratory testing and analyses, and will include recommendations for design and construction of the project. Reports will include:

- Vicinity map and site plan showing the approximate exploration locations
- Logs of subsurface explorations
- Discussion of field exploration methods
- Discussion of laboratory test procedures used
- Results of laboratory tests
- Faulting and seismicity
- Secondary effects of earthquake
- Grading, site preparation, and compacted fill in unexcavated areas
- Foundation recommendations, estimated total and differential settlement of foundations for anticipated loading
- Static and dynamic earth pressures
- Frictional and passive values for resistance of lateral loads
- Placement of backfill and drainage requirements behind retaining walls, building walls, and pavements
- Subgrade preparation and support of floor slabs-on-grade
- Preliminary cost estimate for earthwork

PROFESSIONAL CONSULTANT SERVICES AGREEMENT
[CONSULTANT'S NAME]
FOR _____ SERVICES
FOR VARIOUS CITY PROJECTS

THIS PROFESSIONAL CONSULTANT SERVICES AGREEMENT ("Agreement") is made and entered into this _____ day of _____, ("Effective Date") by and between the CITY OF RIVERSIDE ("City"), a municipal corporation, and _____, a California _____ ("Consultant").

RECITALS

- A. City requires the services of a consultant that is experience in providing _____ services.
- B. City issued a Request for Proposals for purposes of establishing a panel of consultants experienced in providing real property appraisals, relocation assistance, good will appraisals, environmental phase I reports for various City projects.
- C. Consultant has the necessary experience in providing _____ services and advice.
- D. Consultant has submitted a proposal to the City and has affirmed its willingness and ability to provide such services.

AGREEMENT

1. Scope of Services.

1.1 City hereby retains Consultant to perform, and Consultant agrees to render, professional services for various City projects ("Assigned Project") as those services are more particularly described Exhibit "A", "Scope of Services" ("Services"), attached hereto and incorporated herein by reference.

1.2 During the term of this Agreement, as the need arises, Consultant shall have the opportunity to submit proposals for Assigned Projects. The scope of work, including the completion date for the Assigned Project, will be as set forth in writing and issued by the City ("Project Narrative"). Any modification to the Services will also be set forth in the Project Narrative. All proposals submitted shall be reviewed by the Contract Administrator, as that term is defined below, and a single consultant will be selected to perform the services for that particular Assigned Project. Acceptance of Consultant's proposal shall be made in the form of a Supplemental Agreement for the Assigned Project, a sample of which is attached hereto as Exhibit "B" and incorporated herein by reference.

2. **Term.** This Agreement shall be from _____, 2004 to _____, 2009.

3. Compensation/Payment.

3.1 Consultant shall receive compensation for all Services rendered under this Agreement at the rates negotiated for the Assigned Projects and set forth in the Supplemental Agreement issued by the City. The total amount to be paid to Consultant for all Assigned Projects shall not exceed Five Hundred Thousand Dollars (\$500,000.00) over the term of this Agreement without prior written

approval of the City Council. Payments shall be made in accordance City's usual accounting procedures upon receipt and approval of an itemized invoice setting forth the services performed. The invoices shall be delivered to City at the address set forth in Section 4 hereof. Consultant's hourly rate schedule ("Professional Hourly Rates"), attached hereto as Exhibit "C" and incorporated herein by reference, shall remain unchanged for the first three (3) years of this Agreement. Beginning in the fourth (4th) year, rates may be reviewed and modified, however, any proposed rate increase shall not exceed the then current Consumer Price Index.

3.2 In the event Consultant fails to submit any required report to the satisfaction of the City by the due date set forth in the Project Narrative, the fee to be received by Consultant shall be reduced by ten percent (10%) each three (3) business day period that the report is late.

4. **Notices.** Any notices required to be given hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the party to be served as follows:

To City

Real Property Service Division
City of Riverside
Attn: Supervising Real Property Agent
3560 University Avenue, Suite B
Riverside, CA 92501

To Consultant

[*]

5. **Prevailing Wage.** If applicable, Consultant and all subcontractors are required to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720 et seq. of the California Labor Code and implemented by Resolution No. 13346 of the City Council of the City of Riverside. The Director's determination is on file and open to inspection in the office of the City Clerk and is referred to and made a part hereof; the wage rates therein ascertained, determined, and specified are referred to and made a part hereof as though fully set forth herein.

6. **Standard of Performance.** While performing the Services, Consultant shall exercise the reasonable professional care and skill customarily exercised by reputable members of Consultant's profession practicing in the Metropolitan Southern California Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise.

7. **Contract Administration.** For each Assigned Project, the General Services Director of the City will designate in writing a representative who will act as the Contract Administrator. The Contract Administrator will be identified in the Project Narrative, and shall have authority to act on behalf of City in connection with the Assigned Project.

8. **Personnel.** Consultant shall designate a representative for each Assigned Project ("Project Representative"). Consultant's Project Representative shall be available to City at all reasonable times and will be the primary individual performing the Services under the Assigned Project. Consultant recognizes that the qualifications and experience of the personnel to be used are vital to professional and timely completion of the Services. The key personnel listed in Exhibit "D" attached hereto and incorporated herein by reference and assigned to perform portions of the Services shall remain assigned through completion of the Services. Any substitution of personnel or the Project Representative shall be subject to City's written approval. In the event that City and Consultant cannot agree as to the substitution of the Project Representative or other key personnel, City shall be entitled

to terminate this Agreement.

9. **Assignment and Subcontracting.** Neither party shall transfer any right, interest, or obligation in or under this Agreement to any other entity without prior written consent of the other party. In any event, no assignment shall be made unless the assignee expressly assumes the obligations of assignor under this Agreement, in a writing satisfactory to the parties. Consultant shall not subcontract any portion of the work required by this Agreement without prior written approval by the responsible City's Contract Administrator. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including without limitation, the insurance obligations set forth in Section 12. Consultant acknowledges that any transfer of rights may require City Manager and/or City Council approval.

10. **Independent Contractor.** In the performance of this Agreement, Consultant, and Consultant's employees, subcontractors and agents, shall act in an independent capacity as independent contractors, and not as officers or employees of the City of Riverside. Consultant acknowledges and agrees that the City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance to Consultant, or to Consultant's employees, subcontractors and agents. Consultant, as an independent contractor, shall be responsible for any and all taxes that apply to Consultant as an employer.

11. **Indemnification.**

11.1 **Indemnity.** Except as to the sole negligence or willful misconduct of the City, Consultant shall defend, indemnify and hold the City, and its officers, employees and agents, harmless from any and all loss, damage, claim for damage, liability, expense or cost, including attorneys' fees, which arises out of or is in any way connected with the performance of work under this Agreement by Consultant or any of the Consultant's employees, agents or subcontractors and from all claims by Consultant's employees, subcontractors and agents for compensation for services rendered to Consultant in the performance of this Agreement, notwithstanding that the City may have benefitted from their services. This indemnification provision shall apply to any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of Consultant or of Consultant's employees, subcontractors or agents.

11.2 **Attorney's Fees.** The parties expressly agree that any payment, attorneys' fees, costs or expense that the City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this Section, and that this Section shall survive the expiration or early termination of the Agreement.

12. **Insurance.**

12.1 **General Provisions.** Prior to the City's execution of this Agreement, Consultant shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and coverages may be modified in writing by the City's Risk Manager or City Attorney, or a designee, unless such modification is prohibited by law.

12.1.1 **Limitations.** These minimum amounts of coverage shall not constitute any limitation or cap on Consultant's indemnification obligations under Section 10 hereof.

12.1.2 **Ratings.** Any insurance policy or coverage provided by Consultant or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance

business in the State of California with a policy holder's rating of B+ or higher and a Financial Class of VII or higher.

12.1.3 **Cancellation.** The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

12.1.4 **Adequacy.** The City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Consultant pursuant to this Agreement are adequate to protect Consultant. If Consultant believes that any required insurance coverage is inadequate, Consultant will obtain such additional insurance coverage as Consultant deems adequate, at Consultant's sole expense.

12.2 **Workers' Compensation Insurance:** By executing this Agreement, Consultant certifies that Consultant is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Consultant shall carry the insurance or provide for self-insurance required by California law to protect said Consultant from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Consultant shall file with City either (1) a certificate of insurance showing that such insurance is in effect, or that Consultant is self-insured for such coverage, or (2) a certified statement that Consultant has no employees, and acknowledging that if Consultant does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days prior written notice before modification or cancellation thereof.

12.3 **Commercial General Liability and Automobile Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Consultant against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Consultant. The City, and its officers, employees and agents, shall be named as additional insureds under the Consultant's insurance policies.

12.3.1 Consultant's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent Consultant's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

12.3.2 Consultant's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$500,000 per occurrence and an aggregate limit of not less than \$1,000,000. All of Consultant's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with Consultant's performance of this Agreement, which vehicles shall include, but are not limited to, Consultant owned vehicles, Consultant leased vehicles, Consultant's employee vehicles, non-Consultant owned vehicles and hired vehicles.

12.3.3 Prior to City's execution of this Agreement, copies of insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with City and shall include the City and its officers, employees and agents, as additional insureds. Said policies shall be in the

usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

12.4 Errors and Omissions Insurance. Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, errors and omissions professional liability insurance in the minimum amount of \$1,000,000 to protect the City from claims resulting from the Consultant's activities.

12.5 Subcontractors' Insurance. Consultant shall require all of its subcontractors to carry the same insurance as required by Consultant as set forth in this Agreement, including, but without limitation, the following coverages: Workers Compensation, Commercial General Liability, Errors and Omissions, and Automobile liability. Upon City's request, Consultant shall provide City with satisfactory evidence that its subcontractors have obtained insurance policies and coverages required by this section.

13. Business Tax. Consultant understands that the Services performed under this Agreement constitutes doing business in the City of Riverside, and Consultant agrees that Consultant will register for and pay a business tax pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement.

14. Time of Essence. Time is of the essence for each and every provision of this Agreement.

15. City's Right to Employ Other Consultants. City reserves the right to employ other Consultants in connection with the Project.

16. Accounting Records. Consultant shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

17. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant, except as otherwise directed by City's Contract Administrator. Nothing furnished to Consultant which is otherwise known to the Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production, website, or other similar medium without the prior written consent of the City.

18. Ownership of Documents. All reports, maps, drawings and other contract deliverables prepared under this Agreement by Consultant shall be and remain the property of City upon City's compensation to Consultant for its services as herein provided. Consultant shall not release to others

information furnished by City without prior express written approval of City.

19. **Conflict of Interest.** Consultant, for itself and on behalf of the individuals listed in Exhibit "D", represents and warrants that by the execution of this Agreement, they have no interest, present or contemplated, in the Project affected by the above-described Services. Consultant further warrants that neither Consultant, nor the individuals listed in Exhibit "D" have any real property, business interests or income interests that will be affected by this project or, alternatively, that Consultant will file with the City an affidavit disclosing any such interest.

20. **Solicitation.** Consultant warrants that Consultant has not employed or retained any person or agency to solicit or secure this Agreement, nor has it entered into any agreement or understanding for a commission, percentage, brokerage, or contingent fee to be paid to secure this Agreement. For breach of this warranty, City shall have the right to terminate this Agreement without liability and pay Consultant only for the value of work Consultant has actually performed, or, in its sole discretion, to deduct from the Agreement price or otherwise recover from Consultant the full amount of such commission, percentage, brokerage or commission fee. The remedies specified in this section shall be in addition to and not in lieu of those remedies otherwise specified in this Agreement.

21. **General Compliance with Laws.** Consultant shall keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Consultant, or in any way affect the performance of services by Consultant pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws, ordinances and regulations, and shall be solely responsible for any failure to comply with all applicable laws, ordinances and regulations.

22. **Amendments.** This Agreement may be modified or amended only by a written document executed by the Consultant and City.

23. **Termination.** City, by notifying Consultant in writing, shall have the right to terminate any or all of Consultant's services and work covered by this Agreement at any time. In the event of such termination, Consultant may submit Consultant's final written statement of the amount of Consultant's services as of the date of such termination based upon the ratio that the work completed bears to the total work required to make the report complete, subject to the City's rights under Sections 15 and 23 hereof.

23.1 This Agreement may be terminated by either party without cause upon fifteen (15) days prior written notice to the other party.

23.2 City may terminate this Agreement upon written notice to Consultant, in the event:

23.2.1 Consultant substantially fails to perform or materially breaches the Agreement; or

23.2.2 City decides to abandon or postpone the Project.

23.3 In the event of termination, City shall determine and pay to Consultant as full payment for all work performed and all expenses incurred hereunder the amount which bears the same ratio to maximum fee otherwise payable under this Agreement as the ratio which the work actually rendered bears to the totality of the Services which would have been rendered had the Agreement been fully performed. In ascertaining the work actually rendered through the termination date, City shall consider completed work, work in progress and complete and incomplete reports and other documents only after delivered to City.

24. **Offsets.** Consultant acknowledges and agrees that with respect to any business tax or penalties thereon, utility charges, invoiced fee or other debt which Consultant owes or may owe to the City, City reserves the right to withhold and offset said amounts from payments or refunds or reimbursements owed by City to Consultant. Notice of such withholding and offset shall promptly be given to Consultant by City in writing. In the event of a dispute as to the amount owed or whether such amount is owed to the City, City will hold such disputed amount until either the appropriate appeal process has been completed or until the dispute has been resolved.

25. **Successors and Assigns.** This Agreement shall be binding upon City and its successors and assigns, and upon Consultant and its permitted successors and assigns, and shall not be assigned by Consultant, either in whole or in part, except as otherwise provided in paragraph 9 of this Agreement.

26. **Venue and Attorneys' Fees.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event either party hereto shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof, including reasonable attorneys' fees, to be set by the court in such action.

27. **Nondiscrimination.** During Consultant's performance of this Agreement, Consultant shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Consultant agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

28. **Severability.** Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, of this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement, and the remainder of the Agreement shall continue in full force and effect.

29. **Authority:** The individuals executing this Agreement and the instruments referenced herein on behalf of Consultant each represent and warrant that they have the legal power, right and actual authority to bind Consultant to the terms and conditions hereof and thereof.

30. **Entire Agreement:** This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Agreement by, and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

31. **Interpretation.** City and Consultant acknowledge and agree that this Agreement is the product of mutual arms-length negotiations and accordingly, the rule of construction, which provides that the ambiguities in a document shall be construed against the drafter of that document, shall have

no application to the interpretation and enforcement of this Agreement.

31.1 Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of the Agreement or any of its terms. Reference to section numbers are to sections in the Agreement unless expressly stated otherwise.

31.2 This Agreement shall be governed by and construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement.

31.3 In the event of a conflict between the body of this Agreement and Exhibit "A" ("Scope of Services") hereto, the terms contained in Exhibit "A" shall be controlling.

32. **Exhibits.** The following Exhibits are attached hereto are incorporated herein to this Agreement by this reference:

Exhibit "A" - Scope of Services"

Exhibit "B" - Supplemental Agreement

Exhibit "C" - Hourly Rates Schedule

Exhibit "D" - Personnel

IN WITNESS WHEREOF City and Consultant have caused this Agreement to be duly executed the day and year first above written.

CITY OF RIVERSIDE,
a municipal corporation

[**CONSULTANT**]
[**Entity**]

By: _____
City Manager

By: _____

[Printed Name]

[Title]

Attest: _____
City Clerk

By: _____

[Printed Name]

[Title]

APPROVED AS TO FORM:

By: _____
Deputy City Attorney

EXHIBIT "A"
SCOPE OF SERVICES

**EXHIBIT “B”
SUPPLEMENTAL AGREEMENT**

**EXHIBIT “C”
HOURLY RATES SCHEDULE**

**EXHIBIT “D”
PERSONNEL**